



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,967	02/14/2001	Julian Orbanes	GPH-003H (6934/6)	9256

7590

11/06/2003

Frank R. Occhiuti, Esq.
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

EXAMINER

TRAN, MYLINH T

ART UNIT

PAPER NUMBER

2174

DATE MAILED: 11/06/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/782,967

Applicant(s)

ORBANES ET AL.

Examiner

Mylinh T Tran

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Line 7, "other like" should be avoided.

Claim Objections

Claim 15 is objected to because of the following informalities: the claim depends on claim 13 which has been canceled. Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a

Art Unit: 2174

nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/783,715. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is apparent that the elimination of an element, eliminates the functions of those elements. It is well settled, however, that omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963). Furthermore, these claims are rejected since it was obvious to one of ordinary skill in the art to omit an element when its function was not desired; the subject matter is not patentable in absence of showing of unexpected result flowing from such omission. See *In re Wilson*, 155 USPQ 740 (CCPA 1967). In addition, omission of an element and its function where not needed is obvious. See *Ex parte Rainu*, 168 USPQ 375 (PTO Board of Appeal 1969).

Claims 1-4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of copending Application No. 09/782,964. Although the conflicting

claims are not identical, they are not patentably distinct from each other because it is apparent that the elimination of an element, eliminates the functions of those elements. It is well settled, however, that omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963).

Claims 1-4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/782,966. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is apparent that the elimination of an element, eliminates the functions of those elements. It is well settled, however, that omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963).

Claims 5-12 and 15-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/782,939. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is apparent that the elimination of an element, eliminates the

Art Unit: 2174

functions of those elements. It is well settled, however, that omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963).

Claims 5-12 and 15-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-20 of copending Application No. 09/782,964. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is apparent that the elimination of an element, eliminates the functions of those elements. It is well settled, however, that omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 and 15-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Strasnick et al.[US. 5,671,381].

As to claims 1, 5 and 21, Strasnick et al. discloses employing one or more data objects contained within a data source (column 6, lines 42-65); employing a spatial paradigm for defining hierarchical relationships between said data objects (column 2, lines 20-35 and column 6, lines 1-35); defining one or more hierarchical plates (figure 4A, 420) is one plate); defining an appearance for each of said hierarchical plates, said appearance containing a graphical representation one or more of said data objects (figure 4A, data object is contained in each plate); and locating in a virtual space each of said one or more hierarchical plates, based at least in part on said spatial paradigm (column 6, lines 1-35); displaying on a client, from an adjustable viewing perspective of a user (column 4, lines 52-65); and enabling said user to navigate said one or more hierarchical plates in a substantially unrestricted fashion (column 7, lines 1-56).

As to claims 2, 7 and 22, Strasnick et al. also discloses the step of defining an appearance further comprises, defining in a portion of said appearance of a first of said one or more hierarchical plates an appearance of data objects associated with a second hierarchical plate at a size relatively smaller than data objects contained in said first hierarchical plate (column 8, line 62 through column 9, line 6 and column 5, line 58 through column 6, line 18).

As to claims 3 and 4, Strasnick et al. shows employing raster and vector graphics in defining said graphical representation (column 10, lines 43-65).

As to claim 6, Strasnick et al. also shows step of displaying on a client further comprises displaying in a portion of said appearance of said first hierarchical plate an appearance of data objects associated with a second hierarchical plate, located virtually behind said first hierarchical plate in said virtual display space (figure 4A, column 10, lines 42-68).

As to claim 8, Strasnick et al. provides virtual distance from said first one of said hierarchical plates to said user decreases, displaying a reduced number of said one or more of said data objects associated with said first one of said hierarchical plates and displaying more detail with respect to said reduced number (column 10, lines 52-67 and column 6, lines 18-24); and defining virtual distances from each of said hierarchical plates to said user, as said, and as said virtual distance from said first one of said hierarchical plates to said user increases, displaying an increased number of said one or more of said data objects associated with said first one of said plates, and displaying less detail with respect to said increased number (column 7, lines 1-20).

As to claims 9 and 15, Strasnick et al. also provides defining said first hierarchical plate to be translucent, and enabling said user to view through said first hierarchical plate one or more data objects on a second one of said hierarchical plates located at a greater virtual distance from said user than

said first hierarchical plate (figure 4A, column 18, lines 15-40). In figure 4A, user can view the behind plate through the first plate).

As to claim 10, Strasnick et al. demonstrates defining said first hierarchical plate to be opaque, and inhibiting said user from viewing through said first hierarchical plate said one or more data objects associated with a second one of said hierarchical plates located at a greater virtual distance from said user than said first hierarchical plate (column 12, lines 35-65).

As to claim 11, Strasnick et al. also demonstrates defining a closest one of said one or more hierarchical plates as having a smallest 3 one of said virtual distances, and employing said closest one of said hierarchical plates as said first one of said (column 7, lines 1-55).

As to claim 12, Strasnick et al. discloses organizing said one or more data objects on one of said one or more hierarchical plates to be hierarchically equivalent (column 6, lines 10-65).

As to claim 16, Strasnick et al. also discloses enabling said user to vary said virtual distances with respect to each of said plates (column 8, lines 1-11).

As to claim 17, Strasnick et al. shows defining a threshold smallest virtual distance at which said closest one of said hierarchical plates is determined to be located virtually behind said user, in response to said user navigating to said threshold smallest virtual distance, ceasing to display said closest one of said hierarchical plates, and defining a plate having a next smallest virtual

Art Unit: 2174

distance to be said closest one of said hierarchical plates (column 6, lines 10-18).

As to claim 18, Strasnick et al. also shows providing a visual indication to said user as to which of said hierarchical plates is being displayed (column 1-18).

As to claim 19, Strasnick et al. teaches the step of providing further comprises employing a breadcrumb trail (column 10, lines 1-18, spotlight).

As to claim 20, Strasnick et al. also teaches enabling said user to select a representation of one of said hierarchical plates displayed in said visual indication, thereby changing said appearance to said selected one of said hierarchical plates (column 10, lines 19-42).

Conclusion

Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires fax a response, (703) 746-7238), may be used for formal After Final communications, (703) 746-7239 for Official communications, or (703) 746-4395 for Non-Official or draft communications. NOTE, A Request for Continuation (Rule 60 or 62) cannot be faxed.

Please label "PROPOSED" or "DRAFT" for information facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Fourth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications
from the examiner should be directed to Mylinh Tran whose telephone
number is (703) 308-1304. The examiner can normally be reached on
Monday-Thursday from 8.00AM to 6.30PM

If attempt to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640,

All Internet e-mail communications will be made of record in the
application file. PTO employees do not engage in Internet communications
where there exists a possibility that sensitive information could be identified
or exchanged unless the record includes a properly signed express waiver of
the confidentiality requirements of 35 U.S.C. 122. This is more clearly set
forth in the Interim Internet Usage Policy published in the Official Gazette of
the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this
application or proceeding should be directed to the Group receptionist whose
telephone number is (703) 305-3800.

Mylinh Tran
Art Unit 2174


KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100